

**EXHIBIT "A"**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

UNITED STATES OF AMERICA

Plaintiff,

v.

ANDERSON, GREENWOOD & CO.,  
(for Keystone), et al.,

Defendants.

CIVIL ACTION NO.  
H-91-3529

**CONSENT DECREE BETWEEN THE UNITED STATES AND  
ALLIEDSIGNAL INC., GROENDYKE TRANSPORT, INC.,  
J.M. HUBER CORPORATION, AND  
DARLING-DELAWARE COMPANY, INC. (ON BEHALF OF  
PEPPER RENDERING COMPANY, AND FOR ITS PREDECESSORS  
IN INTEREST, INCLUDING BEATRICE FOODS CO.)**

The United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), has filed an amended complaint ("Complaint") pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §§ 9606, 9607, for the abatement or cost of abatement of any release or threat of release of hazardous substances from a facility known as the Sheridan Disposal Services Superfund Site ("Site"), located on a cut bank above the Brazos River, approximately nine miles north-northwest of the City of Hempstead, Waller County, Texas.



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- The Complaint alleges that the defendants named in the Complaint are persons liable under CERCLA and seeks: (1) to impose liability for the abatement of the release or threatened release of hazardous substances at or from the Site that would pose an endangerment to public health and the environment; (2) recovery of response costs, pursuant to Section 107 of CERCLA, 42 U.S.C. § 9607, incurred by the United States; and (3) a declaratory judgment for recovery of future response costs incurred by the United States pursuant to Section 107.

The United States has incurred response costs in responding to the release or threat of release of hazardous substances at or in connection with the Site.

Certain of the defendants ("Settlors" as hereinafter defined) desire to make a cash payment to settle their liabilities as currently alleged by the United States for its response costs with respect to the Site to avoid difficult, prolonged, and complicated litigation between the Settlers and the United States.

Pursuant to CERCLA Section 122, 42 U.S.C. § 9622, the United States and the Settlers each stipulate and agree to the making and entry of this Consent Decree ("Decree") prior to the taking of any testimony, based upon the pleadings herein, and without any admission of liability or fault as to any allegation or matter arising out of the pleadings of any party or otherwise.

Each undersigned representative of the Settlers certifies that he or she is fully authorized to enter into the terms and

conditions of this Decree and to execute and legally bind such party to this document.

The undersigned representatives of the United States certify that they are collectively authorized to enter into the terms and conditions of this Decree and to execute and legally bind the United States to this document.

NOW, THEREFORE, without trial, adjudication, or admission of any issue of law, fact, liability, or responsibility by the Settlers, and without the Decree being admissible as evidence in any proceeding except in a proceeding to enforce the terms of this Decree or an otherwise specifically provided in this Decree, it is hereby ORDERED, ADJUDGED, AND DECREED THAT:

#### I. JURISDICTION

1. The Court has jurisdiction over this matter and the Parties pursuant to Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), and 28 U.S.C. §§ 1331 and 1345. The Parties agree not to contest the jurisdiction of the Court to enter this Decree or in any subsequent action by the Parties to enforce, modify, or terminate it. The Complaint states a cause of action upon which, if the allegations were proved, relief can be granted.

#### II. PARTIES

2. The parties to this Decree are the United States of America on behalf of the United States Environmental Protection Agency and AlliedSignal Inc., Groendyke Transport, Inc., J.M. Huber Corporation, and Darling-Delaware Company, Inc. (on behalf of

Pepper Rendering Company, and for its predecessors in interest, including Beatrice Foods Co.) (collectively "the Settlers").

### III. STATEMENT OF PURPOSE

3. The purpose of this Decree is to: (a) protect human health and the environment from the release or threatened release of hazardous substances at or from the Site; (b) fund and implement the Remedial Action; (c) provide for recovery of costs incurred and to be incurred by the United States in response to the release or threatened release of hazardous substances at or from the Site; and (d) the resolution of claims by the United States against the Settlers.

### IV. BINDING EFFECT

4. This Decree applies to and is binding upon the Settlers, their officers, agents, servants, employees, successors, assigns, and those persons in active concert or participation with them who receive actual notice of this Decree and the United States.

### V. DEFINITIONS

5. The principal terms used herein are defined as follows:

CERCLA: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986).

Costs: All oversight, administrative, enforcement, and response costs, direct or indirect, incurred or to be incurred by the United States relative to the Site.

Day: A calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than a Saturday, Sunday, or Federal holiday. In computing any period of time under this Decree, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

DOJ: United States Department of Justice.

EPA: The United States Environmental Protection Agency and any successor departments or agencies of the United States.

Future Liability: Any and all liability or other civil obligation arising from or relating to the Site resulting from any future release or threatened future release of a hazardous substance that arises after Certification of Completion of the Remedial Actions.

NCP: The National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300, as amended.

NPL: The National Priorities List, 40 C.F.R. Part 300, Appendix B.

Paragraph: a portion of this Consent Decree identified by an arabic numeral or an upper case letter.

Parties: The United States and the Settlers herein.

Records of Decision or RODs: The document signed by the EPA Region 6 Regional Administrator on December 29, 1988, which describes the Remedial Action for the Source Control Operable Unit to be conducted at the Site, and the document signed by the EPA Region 6 Regional Administrator on September 27, 1989, which

describes the Remedial Action for the Ground Water Migration Management Operable Unit to be conducted at the Site.

RCRA: The Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., as amended.

Remedial Actions: The implementation of the remedies selected by EPA for the Source Control Operable Unit at the Site, as described in the ROD dated December 29, 1988, and for the Ground Water Migration Management Operable Unit at the Site, as described in the ROD dated September 27, 1989.

Settlers: AlliedSignal Inc., Groendyke Transport, Inc., J.M. Huber Corporation, and Darling-Delaware Company, Inc. (on behalf of Pepper Rendering Company, and for its predecessors in interest, including Beatrice Foods Co.).

Sheridan Site or Site: A "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), that has been listed on the NPL, and which is located on a cut bank above the Brazos River, approximately nine miles north-northwest of the City of Hempstead, Waller County, Texas.

#### VI. PREAUTHORIZATION

6. Nothing in this Decree shall be considered to be a preauthorization of the CERCLA claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, and 40 C.F.R. § 300.700(d).

#### VII. PAYMENT

7. Within 30 days of the effective date of this Consent Decree, the Settlers shall pay to the United States a total of two million and five hundred thousand dollars (\$2,500,000.00). The

Settlors shall make all payments required by this Paragraph in the manner described in Paragraph 8.

8. The payment required in Paragraph 7 of this Decree shall be made by Electronic Funds Transfer ("EFT" or wire transfer) to the U.S. Department of Justice lockbox bank, referencing the Site Name, CERCLA Site/Spill Number 06-90 and Civil Action No. H-91-3529. Payment shall be made in accordance with instructions provided by the United States to Settlers upon execution of this Decree. Any EFTs received at the U.S. D.O.J. lockbox bank after 11:00 A.M. (Eastern Time) will be credited on the next business day. The Settlers shall send copies of the EFT to the United States at the following address:

Chief  
Environmental Enforcement Section  
United States Department of Justice  
Environment and Natural Resources Division  
P.O. Box 7611, Ben Franklin Station  
Washington, D.C. 20044

and to EPA at the following addresses:

Anne Foster  
Office of Regional Counsel  
U.S. EPA Region 6  
1445 Ross Avenue  
Dallas, Texas 75202

Carl Bolden  
Superfund Enforcement Officer  
U.S. EPA Region 6  
1445 Ross Avenue  
Dallas, Texas 75202

9. In the event that the payment required by Paragraph 7 is not made within 30 days of the effective date of this Decree, Settlers shall pay interest on the unpaid balance at the rate established pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607.

The interest to be paid shall begin to accrue on the effective date of the Decree. Interest shall accrue at the rate specified through the date of the Settlers' payment. Payments of interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Settlers' failure to make timely payments under this Section.

10. The unwillingness or failure to pay or the insolvency of any signatory whether or not it is through formal bankruptcy proceedings shall not affect or discharge the obligations of the remaining signatories to this Decree. In any such event, the remaining Settlers will be responsible jointly and severally for full satisfaction of the total obligation for reimbursement to the United States as set forth in this Section.

#### VIII. COVENANT NOT TO SUE

11. In consideration of the payments that will be made by the Settlers under the terms of the Decree, and except as specifically provided in Paragraphs 12 and 13 of this Section, the United States covenants not to sue or take any administrative action against the Settlers for any civil or administrative liability to the United States under CERCLA or Section 7003 of RCRA relating to the Site, including past response costs and future liability, resulting from any release or threatened release of hazardous substances, which release or threatened release is addressed by the Remedial Actions.

This covenant not to sue shall take effect upon the receipt by EPA of all payments required by Section VII of this Decree. This



- covenant not to sue extends only to the Settlers and does not extend to any other person.

12. General reservations of rights. The covenant not to sue set forth in the preceding Paragraph does not pertain to any matters other than those expressly specified therein. The United States reserves, and this Decree is without prejudice to, all rights against Settlers with respect to all other matters. Except as provided in the preceding Paragraph, nothing contained herein shall in any way limit or restrict the response and enforcement authority of the United States to initiate appropriate action, either judicial or administrative, under Sections 104, 106, and 107 of CERCLA, 42 U.S.C. §§ 9604, 9606, and 9607, or any other provision of law, against Settlers or against any other person or entity not a party to this Decree.

Notwithstanding any other provision of this Decree, the United States reserves the right to institute proceedings in a new action, or to issue an administrative order seeking to compel the Settlers (1) to perform response actions at the Site or (2) to reimburse the United States for additional costs of response if

1. conditions at the Site, previously unknown to the United States or its contractors, are discovered after the entry of this Decree, or
2. information is received, previously unknown to the United States or its contractors, in whole or in part, after the entry of this Decree,

and the EPA Administrator or his delegate finds, based on these previously unknown conditions or this previously unknown information together with other relevant information, that the

— Remedial Actions at the Site are not protective of human health and the environment. For purposes of this Paragraph, the statements contained in the Affidavit attached hereto as Exhibit 1 shall be considered newly discovered or previously unknown information received after the date of entry of this Decree.

13. Specific reservations of rights. The provisions of Paragraph 11 of this Section shall not apply to the following claims:

(1) Claims based on a failure by Settlers to fulfill the requirements of this Consent Decree;

(2) Claims for costs incurred by the United States as a result of the failure of the Settlers to fulfill the requirements of the Decree;

(3) Claims based on criminal liability;

(4) Claims based on liability arising from hazardous substances removed from the Site by any Party; and

(5) Claims based on liability for any future removal or remedial actions taken at the Site beyond the scope of the Remedial Actions described in the RODs.

#### IX. COVENANTS BY SETTLING DEFENDANTS

14. The Settlers hereby covenant not to sue the United States, including any and all departments, agencies, officers, administrators, and representatives thereof, or each other, for any claim, counter-claim, or cross-claim asserted, or that could have been asserted, arising out of or relating to the Site or this Decree. The Settlers agree not to assert any claims or causes of action, direct or indirect, against the Hazardous Substance Superfund (established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507) through CERCLA Sections 106(b)(2), 111, 112, 113 or

any other provision of law, arising from any activity performed or expenses incurred pursuant to this litigation or under this Decree or arising from remedial activities at the Site.

X. CONTRIBUTION PROTECTION

15. With regard to claims for contribution against Settlers for matters addressed in this Decree, the Parties agree that the Settlers are entitled, as of the effective date of this Decree, to such protection from contribution actions or claims as is provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2). The United States shall be under no obligation to assist the Settlers in any way in pursuing or defending against suits for contribution brought against the Settlers. Nothing in this Paragraph shall be deemed to modify the provisions of 40 C.F.R. § 2.401 et seq.

XI. RESERVATION OF RIGHTS AND RETENTION OF CLAIMS

16. By entering this Decree the Parties do not release or covenant not to sue any other persons or entities, not party to this Decree, from any claims or liabilities which may exist. The right to pursue such claims or liabilities is expressly reserved.

17. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person, not a party to this Decree. The preceding sentence shall not be construed to waive or nullify any rights that any person not a signatory to this Decree may have under applicable law.

18. The entry of this Decree shall not be construed to be an acknowledgement by the Settlers that the release or threatened release concerned constitutes an imminent and substantial

endangerment to the public health or welfare or the environment. Except as otherwise provided in the Federal Rules of Evidence, the participation by the Settlers shall not be considered an admission of liability for any purpose, and the fact of such participation shall not be admissible in any judicial or administrative proceeding except in one to enforce the terms of this Decree. Further, Settlers do not admit, and specifically deny, responsibility for the disposal of material at the Site and deny any legal or equitable liability under any statute, regulation, ordinance, or common law for any response costs or damages caused by storage, treatment, handling, disposal, or presence of materials or actual or threatened release of material at the Site.

19. Nothing in this Decree shall be deemed to limit the response authority of the United States pursuant to any federal response authority under any law.

20. Except as otherwise provided in this Decree, the Settlers reserve all rights, defenses, claims, causes of action or counterclaims which they may have at law or in equity to defend against any person or other entity not a signatory to this Decree for any liability it may have arising out of or relating to the Site.

21. The Settlers shall have the benefit of Section 113(f)(2) of CERCLA and any other applicable rights which limit their liability to persons or entities not parties to this Decree. The Settlers retain their rights to seek contribution, together with any other equitable or legal remedy which the Settlers may have,

— from any person or entity not a party to this Decree for costs incurred or any other relief with respect to the Site in order to enable the Settlers to recover the full relief available to them at law or in equity.

22. Settlers waive any defenses based upon the doctrines or res judicata, collateral estoppel and/or claim-splitting which Settlers may have in this action or any other proceeding as to any claim by the United States for further remediation at the Site other than the Remedial Actions.

## XII. STIPULATED PENALTIES

23. In addition to any other remedies or sanctions available to the United States, Settlers shall be subject to stipulated penalties to the United States for failure to make the payment required under this Consent Decree when due (as specified in Paragraph 7 of this Decree) in the amount of \$1,000 per day for the first week of noncompliance; and \$5,000 per day for the 8th day and beyond of noncompliance. All penalties shall begin to accrue on the due date for payment, as specified in Paragraph 7, and shall continue to accrue until payment is made.

All penalties owed to the United States under this section shall be due and payable within 30 days of the Settlers' receipt from EPA of a demand for payment of the penalties. All payments under this Section shall be made in the form of a certified check or checks made payable to "EPA Hazardous Substance Superfund," and

referencing CERCLA Number 06-90 and Civil Action Number H-91-3529.

The Settlers shall forward the certified check to:

Regional Hearing Clerk (6C)  
U.S. EPA, Region 6  
P.O. Box 360582M  
Pittsburgh, PA 15251

and shall send copies of the check to the United States at the addresses specified in Paragraph 8.

#### XIII. MODIFICATION

24. There shall be no modification of this Decree without written approval of all Parties to this Decree and entry by the Court.

#### XIV. TERMINATION AND SATISFACTION

25. The provisions of this Decree shall be deemed satisfied upon the Settlers' receipt of written notice from EPA that payment in full of the total amount due under this Decree has been received.

#### XV. SEVERABILITY

26. The nullification of any one or more provisions of this Decree, either by agreement of the Parties or by judicial action shall not affect the validity or effectiveness of the remaining provisions.

#### XVI. SECTION HEADINGS

27. The section headings set forth in this Decree are included for convenience of reference only and shall be disregarded in the construction and interpretation of any of the provisions of this Decree.

**XVII. CONTINUING JURISDICTION**

28. This Court specifically retains jurisdiction over both the subject matter of and the Parties to this action for the duration of this Decree for the purposes of issuing such further orders or directions as may be necessary or appropriate to construe, implement, modify, enforce, terminate, or reinstate the terms of this Decree or for any further relief as the interest of Justice may require.

**XVIII. OPPORTUNITY FOR PUBLIC COMMENT**

29. This Decree is subject to public comment for a period of not less than 30 days from the date of publication of notice in the Federal Register.


**XIX. EFFECTIVE DATE**

30. The effective date of this Decree shall be the date upon which this Decree is entered by the Court, except as otherwise provided herein.

**XX. NON-OPPOSITION TO CONSENT DECREES**

31. Each Settlor hereby agrees not to oppose entry by this Court of this Decree or any other consent decree previously lodged in this action or to challenge any provision of this Consent Decree, unless the United States has notified the Settlers in writing that it no longer supports entry of the Consent Decree.


SO ORDERED THIS 16<sup>th</sup> DAY OF October, 1997


  
United States District Judge  
15

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Anderson, Greenwood & Company, et al., Civil Action No. H-91-3529, in connection with the Sheridan Disposal Services Superfund Site.

FOR THE UNITED STATES OF AMERICA

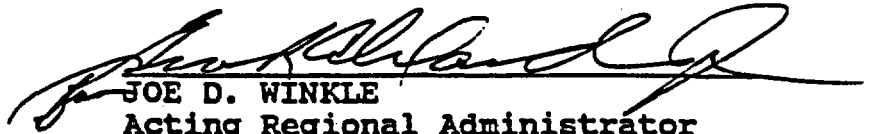
Date: JUN 18 1993

*for*   
MYLES E. FLINT  
Assistant Attorney General  
Environment and Natural Resources  
Division  
U.S. Department of Justice  
Washington, D.C. 20530

  
BEVERLEE DE STEIN  
Environmental Enforcement Section  
Environment and Natural Resources  
Division  
U.S. Department of Justice  
Washington, D.C. 20530



FOR THE U.S. ENVIRONMENTAL PROTECTION  
AGENCY



JOE D. WINKLE  
Acting Regional Administrator  
Region 6  
U.S. Environmental Protection  
Agency  
1445 Ross Avenue  
Dallas, Texas 75202



ANNE FOSTER  
Assistant Regional Counsel  
Region 6  
U.S. Environmental Protection  
Agency  
1445 Ross Avenue  
Dallas, Texas 75202

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Anderson, Greenwood & Company, et al., Civil Action No. H-91-3529, in connection with the Sheridan Disposal Services Superfund Site.

FOR ALLIEDSIGNAL INC.

Date: May 24, 1993

  
Name JAMES A. SCHUTT

Title Director, Manufacturing Services

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Anderson, Greenwood & Company, et al., Civil Action No. H-91-3529, in connection with the Sheridan Disposal Services Superfund Site.

FOR GROENDYKE TRANSPORT, INC.

Date: 5-12-93

Name

A. B. Knight

Vice President Safety  
Title

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Anderson, Greenwood & Company, et al., Civil Action No. H-91-3529, in connection with the Sheridan Disposal Services Superfund Site.

FOR J.M. HUBER CORPORATION

Date: May 27, 1993

Geary Klum  
Name

President  
Title

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Anderson, Greenwood & Company, et al., Civil Action No. H-91-3529, in connection with the Sheridan Disposal Services Superfund Site.

FOR DARLING-DELAWARE COMPANY, INC.  
(ON BEHALF OF PEPPER RENDERING  
COMPANY, AND FOR ITS PREDECESSORS  
IN INTEREST, INCLUDING BEATRICE  
FOODS CO.)

Date: 5/25/93



Name Mel A. Roshanravan

Vice President, Environmental Affairs  
Title